

AN ACT TO PROTECT AND ENHANCE THE RIGHTS OF CHILD AND ADULT VICTIMS AND WITNESSES OF CRIME

Lead Sponsors:

*Senate Majority Leader, Frederick E. Berry
Representative Peter J. Koutoujian*

History/Background of the Massachusetts Victim Bill of Rights:

Massachusetts has a long history as a leader in the Victim Rights Movement. In 1984, the Massachusetts Victim Bill of Rights was enacted into law, creating the most comprehensive rights for victims of crime in any state in the United States. This Bill was filed and signed into law with extraordinary bipartisan legislative support.

Why File Amendments Now?

In the years following the passage of Chapter 258B, significant steps have been taken both legislatively and in everyday practice to enhance the criminal justice system's treatment of crime victims. However, **it has been 10 years** since the last comprehensive review of the law, which led to the 1995 amendment to MGL Ch. 258B. In those ten years, ***the face of crime and the needs of crime victims have changed***. When compared with other states' initiatives to protect and serve victims over the past ten years, Massachusetts has fallen behind - **but is now presented with an opportunity to return to the forefront of this movement**.

How Were the Legislative Goals Identified?

The Massachusetts Office for Victim Assistance (MOVA) launched the Victim Rights Law Project in 2003. Throughout the year, MOVA led statewide focus groups with criminal justice agencies, law enforcement personnel, victim service providers and victim survivors to identify the strengths of victim rights thus far and where improvement is needed. MOVA also studied other states' victim rights laws across the country to learn from their achievements and ideas. From that diverse feedback, MOVA identified common themes that directed the priority issues included in this legislation. It is our hope that this legislation will build upon the successes and continue the legacy of twenty years of victim rights in Massachusetts.

Goals of This Legislation:

The three primary goals driving this legislation are as follows:

1. To clarify and revise the current language in the Victim Bill of Rights to address unfulfilled promises;
2. To codify practices by law enforcement and criminal justice agencies that have evolved over the last decade or more;
3. To add new rights to the Victim Bill of Rights that reflect the needs of crime victims today

Summary of Proposed Legislation:

Please see attached document

For more information, please contact:

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VICTIM RIGHTS LAW PROJECT
Legislative Goals & Respective Priority Issues

1. CLARIFICATION OR REVISION OF CURRENT LANGUAGE

- A.** Ensure that the opportunity for a victim to present a Victim Impact Statement occurs before a sentence or disposition is imposed
- B.** Ensure that the opportunity to present a Victim Impact Statement occurs even if there is an admission to sufficient facts, the sentence is mandatory, or there is an agreed-upon plea
- C.** Clarify right to '*protection assistance*' to ensure appropriate interpretation as providing referrals and assistance in developing safety plans
- D.** Clarify language pertaining to post-conviction notification and certification and include victims of juvenile defendants
- E.** Revise the definition of '*witness*' to include family member or guardian if witness is a minor, incompetent or deceased
- F.** Clarify that the right of victims and family members to be present at all court proceedings includes both adult and juvenile proceedings
- G.** Stipulate that defense counsel may not seek to interview a victim or witness under the age of majority outside the presence of a parent, adult family member or guardian other than the defendant
- H.** Clarify and strengthen the right to a '*separate and secure waiting area*' by eliminating 'subject to appropriation and to available resources' language
- I.** Mandate only one victim/witness fee of \$90.00 for both felonies and misdemeanors, and maintain a \$45.00 assessment for juveniles who are adjudicated delinquent
- J.** Eliminate the possibility of waiver of victim/witness assessments
- K.** Amend definition of '*crime*' to include youthful offender convictions
- L.** Amend definition of '*disposition*' to include delinquent adjudication and youthful offender convictions
- M.** Require that all newly constructed and substantially renovated courthouses include a separate and secure waiting area

2. CODIFICATION OF EXISTING PRACTICES

- A.** Permit child victims/witnesses to have a support person in the courtroom during the child's testimony
- B.** Provide a general familiarization to the courtroom before trial for child victims and witnesses, and to victims/witnesses with physical, mental, developmental or other disabilities to the extent practicable under the circumstances

3. ADDITION OF NEW RIGHTS TO THE VICTIM BILL OF RIGHTS

- A.** Require that a summary of victim rights be posted conspicuously in courthouses and police stations
- B.** Require judges, at plea colloquy, to ensure that the victim had input and has been informed of an admission to sufficient facts, plea, disposition, or an agreed-upon sentence recommendation
- C.** Ensure that written rights are made available for non-English speaking victims
- D.** Insert language providing notice that victims have the right to present a written Victim Impact Statement to the Sex Offender Registry Board and to be informed, upon specific request by the victim, of the defendant's classification status and other authorized information
- E.** Require judges to read a brief statement at the outset of daily court proceedings indicating that victim rights are posted in the courthouse Permit Victim Impact Statements to be offered via audio or videotape, before sentence or disposition is imposed